

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**



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74-2181

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

B  
PS

UNITED STATES OF AMERICA,

Appellee,

-against-

EUGENIO EARINAS,

Appellant.

Docket No. 74-2181

APPENDIX

ON APPEAL FROM A JUDGMENT  
OF THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

WILLIAM J. GALLAGHER, ESQ.,  
THE LEGAL AID SOCIETY,  
Attorney for Appellant  
FEDERAL DEFENDER SERVICES UNIT  
509 United States Court House  
Foley Square  
New York, New York 10007  
(212) 732-2971

SHEILA GINSBERG,  
Of Counsel

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[illegible]

| (12) | ABSTRACT OF COSTS                              | AMOUNT | CASH RECEIVED AND DISBURSED |      |          |           |
|------|--|--------|-----------------------------|------|----------|-----------|
|      |  |        | DATE                        | NAME | RECEIVED | DISBURSED |
|      | Fine,  |        |                             |      |          |           |
|      | Clerk,   |        |                             |      |          |           |
|      | Marshal,                                       |        |                             |      |          |           |
|      | Attorney,                                      |        |                             |      |          |           |
|      | <del>X Commissioner</del> Clerk 18             |        |                             |      |          |           |
|      | <del>X Witness</del> 1201(c), 1201(a) & 875(c) |        |                             |      |          |           |
|      | Consp. to kidnap.(Ct.1)                        |        |                             |      |          |           |
|      | Kidnapping(Ct.2)                               |        |                             |      |          |           |
|      | Threatening communications.(Ct.3)              |        |                             |      |          |           |
|      | (Three Counts)                                 |        |                             |      |          |           |

| DATE    | PROCEEDINGS   |
|---------|---|
| -15-74  | Filed indictment. B/W ordered as to deft. Iglesias. Dr. J. J. J.                              |
| 7-17-74 | Issued Bench Warrant  |
| 7-22-74 | EUGENIO FARNAS - Filed Affidavit for W/H/C, Ad Testificandum to produce Max Farnas as witness |
| 7-22-74 | EUGENIO FARNAS - Filed Affidavit for W/H/C Ad Testificandum to produce Joe Cain as witness    |
| 7-22-74 | EUGENIO FARNAS - Filed Affidavit for W/H/C Ad Testificandum to produce Nelson C. as witness.  |

| DATE      | PROCEEDINGS   | CLERK'S FEES |           |
|-----------|---|--------------|-----------|
|           |   | PLAINTIFF    | DEFENDANT |
| Jul 18-74 | Non-Jury trial begun for Deft. FARINAS, Interpreter Sworn.  |              |           |
| Jul 19-74 | Trial continues. Govt. rec 3.   |              |           |
| Jul 22-74 | Trial continues and concluded. Court finds deft GUILTY as charged. Pre-sentence report ordered. Sentence date 8/22/74 10AM. Deft. remains in custody. - WEINFELD  |              |           |
| 7-23-74   | EUGENIO FARINAS - Filed Waiver of Trial by Jury - WEINFELD, J.  |              | X         |
| 7-23-74   | Filed Writ Satisfied - Weinfeld, J. -(FARINAS)  |              | X         |
| 7-23-74   | Filed Writ Satisfied - Weinfeld, J. (FARINAS)   |              | X         |
| 7-26-74   | Filed Writ Satisfied - Weinfeld, J.   |              | X         |
| 8-22-74   | FARINAS- Filed JUDGMENT that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for a period of THREE (3) YEARS on each of counts 1, 2 and 3 to be served concurrently with each other. - Weinfeld, J. |              | X         |
| 8-22-74   | FARINAS- Deft. advised of his rights to appeal. Clerk to file notice of appeal. - Weinfeld, J.  |              |           |
| 8-22-74   | FARINAS - Filed Notice of Appeal to U.S.C.A. from Final Judgment dtd 8/22/74 U.S. Atty; Clerk U.S.C.A.; Eugenio Farinas; Warden Fed. Det. Hdqtrs.   |              | X         |
| 8-22-74   | Filed Transcript of record of proceedings, dated 7-22-74  |              | X         |

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

74 CRIM. 704

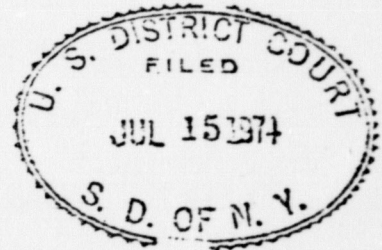
UNITED STATES OF AMERICA

-v-

EUGENIO FARINAS and  
ERNESTOR IGLESIAS,

Defendants.

INDICTMENT (S)  
74 Cr. (EW)



COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of June, 1974, up to and including the 21st day of June, 1974, in the Southern District of New York and elsewhere, EUGENIO FARINAS and ERNESTOR IGLESIAS, the defendants, unlawfully, wilfully and knowingly, together with each other and with other persons to the Grand Jury known and unknown, did combine, conspire, confederate and agree to commit a crime against the United States of America, to wit, to violate Title 18, United States Code, Section 1201(a).

2. It was part of said conspiracy that the defendants would knowingly transport in interstate commerce a person, to wit, Orlando Lopez, who would be unlawfully seized, confined, kidnapped, abducted, carried away and held for ransom, reward and otherwise.

OVERT ACTS

In furtherance of said conspiracy, and to effect the objects thereof, the following overt acts, among others,

2  
RAYMOND F. BURGESS, JR.

were committed in the Southern District of New York and elsewhere:

1. On or about the 1st day of June, 1974, defendants EUGENIO FARINAS and ERNESTOR IGLESIAS, along with Roman Villegas, not named herein as a defendant, met at 12 East 177th Street, Bronx, New York, and had a conversation pertaining to Orlando Lopez.

2. On or about the 11th day of June, 1974, defendant ERNESTOR IGLESIAS drove a white cadillac in the vicinity of Amsterdam Avenue near the George Washington Bridge in the course of abducting Orlando Lopez.

3. On or about the 12th day of June, 1974, defendant ERNESTOR IGLESIAS, along with Roman Villegas, drove a maroon and white Oldsmobile in the vicinity of Dyckman Street and the Henry Hudson Parkway for the purpose of obtaining certain money for the release of Orlando Lopez.

4. On or about the 12th day of June, 1974, the defendant, EUGENIO FARINAS, along with Roman Villegas, met at 12 East 177th Street, in the Bronx, New York.

5. On or about the 12th day of June, 1974, defendant EUGENIO FARINAS, along with Roman Villegas, drove a red Ford Thunderbird from the Bronx, New York, to the vicinity of North Bergen, New Jersey for the purpose of obtaining certain money for the release of Orlando Lopez.

(Title 18, United States Code, Section 1201(c)).

COUNT TWO

The Grand Jury further charges:

On or about the 11th day of June, 1974, in the Southern District of New York and elsewhere, EUGENIO FARINAS and ERNESTOR IGLESIAS, the defendants, along with Roman Villegas, not named herein as a defendant, unlawfully, wilfully and knowingly did seize, confine, kidnap, abduct, carry away and hold for ransom, reward and otherwise a person, to wit, Orlando Lopez, and did wilfully transport said person in interstate commerce from the vicinity of West New York, New Jersey to New York, New York.

(Title 18, United States Code, Sections 1201(a) and 2.)

COUNT THREE

On or about the 11th day of June, 1974, in the Southern District of New York and elsewhere, EUGENIO FARINAS and NESTOR IGLESIAS, the defendants, along with Roman Villegas, not named herein as a defendant, did transmit, and did cause to be transmitted in interstate commerce from the vicinity of Fort Lee, New Jersey to Spring Valley, New York, a telephone communication containing a threat to injure the person of another, to wit, Orlando Lopez.

(Title 18, United States Code, Sections 875(c) and 2.)

James M. Lister  
Foreman

Paul J. Curran  
PAUL J. CURRAN  
United States Attorney

## United States District Court

SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

vs.

EUGENIO FARINAS and  
ERNESTOR IGLESIAS,

Defendants.

## INDICTMENT

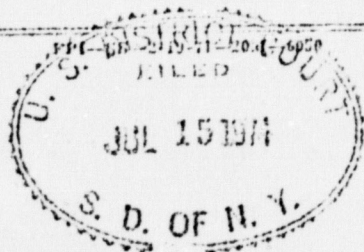
74 Cr.

(18 U.S.C. §§ 1201(c), 1201(a),  
875 and 2)

PAUL J. CURRAN

United States Attorney.

A TRUE BILL

James W. Lichten  
Foreman.7-15-74 B/W ordered as to deft  
IglesiasBjork  
ADJUL 18 1974 New-Tury TRIAL Began For  
FARINAS. Interpreter Claudio Rebagliati

JUL 19 1974 TRIAL CONTINUES. Gov't. Rests.

JUL 22 1974 TRIAL CONTINUES AND CONCLUDES  
Court Finds Deft. Guilty as charged  
& Pre. Sentence Report ORDERED. Sentence  
Aug 22, 10: AM. Deft. REMAINS in Cust  
Weinfeld

AUG 22 1974

EUGENIO FARINAS SENTENCED (ATTY. JOSEPH  
PRESENT) THROUGH CLAUDIO REBAGLIATI, INT.  
TO THREE (3) YEARS ON EACH OF COUNTS  
1 & 3 TO RUN CONCURRENTLY WITH EACHAt a place of confinement to be designated  
by the Atty. Gen. of the U.S. REMANDED.DEFT ADVISED OF RIGHTS TO APPEAL. CLERK  
FILED NOTICE OF APPEAL ON DEFTS BEHALF.

WEINFELD

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 UNITED STATES OF AMERICA,

5 - vs -

6 EUGENIO FARINAS  
7 -----X

:  
:  
:  
74 CR. 404 (S)  
:  
:  
:

8  
9 Before: EDWARD WEINFELD, D. J.

10 22 July, 1974

11  
12 A p p e a r a n c e s :

13 FOR THE GOVERNMENT:

14 PAUL J. CURRAN, ESQ.  
United States Attorney for  
15 The Southern District of New York  
By: KENNETH R. FEINBERG, ESQ. AUSA

16  
17 FOR THE DEFENDANT:

18 JOSEPH STONE, ESQ.

19 P r e s e n t :

20 Claudio Rebagliati, Interpreter  
21  
22  
23  
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- O -

1 THE COURT: The evidence establishes beyond a  
2 reasonable doubt, indeed, beyond peradventure of doubt,  
3 the existence of the conspiracy as charged in the indict-  
4 ment and the commission of the overt acts in its further-  
5 ance. In fact, the conspiracy achieved success.

6 Orlando Lopez was kidnapped at gunpoint in West  
7 New York, New Jersey, transported to New York City, New  
8 York, taken from there back to New Jersey and held for  
9 ransom, which was demanded in several interstate calls  
10 made to his wife and sister-in-law.

11 Members of the conspiracy included Ernestor  
12 Iglesias, a defendant and now a fugitive, and Roman Villegas,  
13 known as "Pupi," who heretofore pleaded guilty to partici-  
14 pation in the crime and testified as a Government witness  
15 upon this trial, as well as others.

16 The issue in this case is whether the defendant,  
17 Eugenio Farinas, was also a member of the conspiracy. Did  
18 he, aware of its purposes, knowingly and deliberately as-  
19 sociate himself with the conspiracy with the intent to aid  
20 and further its objectives?

21 Farinas was not present when Lopez was kidnapped  
22 on June 11, 1974. Iglesias was the kidnapper assisted by  
23 Irene Gonzalez, who also testified as a Government witness.

24 We confine our discussion and findings to the  
25 evidence pertaining to the defendant on trial. According

1  
2 to the government's proof, the conspiracy had its onset  
3 about June 1, 1974 at a meeting at the apartment of Lydia  
4 Ramirez, participated in by Villegas, Iglesias and Farinas,  
5 the defendant on trial, with one Charles and Irene Gonzalez  
6 also present part of the time.

7 Villegas testified to the details of that meeting,  
8 and other witnesses substantiated that in fact it occurred.  
9 Villegas' testimony, if accepted, establishes an actual  
10 agreement -- I think defense counsel referred to this in  
11 his summation -- was reached at this meeting to follow and  
12 seize Lopez and to hold him, not only for \$6,000 allegedly  
13 due from Lopez to one of the trio, but also for an additional  
14 amount to be distributed among them, that is, among  
15 Villegas or Pupi, Iglesias and Farinas.

16 As noted, the kidnapping took place on June 11th  
17 at gunpoint by Iglesias following which, aided by Irene  
18 Gonzalez, Lopez was taken to New York City and then back  
19 to a hideout in New Jersey. Irene Gonzalez conveyed word  
20 of the kidnapping to other conspirators.

21 Soon after the kidnapping, Lopez' wife was con-  
22 tacted by telephone and advised that unless \$30,000 was  
23 paid she would never see her husband alive again.

24 During the more than twenty-four hours when the  
25 kidnapped man was held, there were a number of interstate

1  
2 calls to Mrs. Lopez or her sister with respect to the  
3 ransom demands. During one such call, Mrs. Lopez was  
4 directed to drive on Route 1-9, New Jersey, with the  
5 \$30,000 ransom, where she would be instructed as to how  
6 to proceed.

7 Roman Villegas was the conspirator who was to  
8 receive the money from her. Originally it was intended  
9 that one Diaz, now deceased, would accompany Villegas on  
10 the mission to secure the money from Mrs. Lopez, but  
11 Diaz withdrew because he did not want to get involved since  
12 he was under parole. Farinas took his place.

13 According to The Government's proof, Farinas'  
14 presence at the meeting place prior to departure was not  
15 accidental. At this point Farinas, according to its con-  
16 tention, knew Lopez had been kidnapped. Villegas testified  
17 that in the car while on the way to Meet Mrs. Lopez he in-  
18 formed Farinas as to all the details of the kidnapping,  
19 how Lopez sought to fight off his abductors, including the  
20 crashing of the car in which he was being transported.

21 Villegas further testified that he discussed with  
22 Farinas the division of the ransom money; \$6,000 to go  
23 to Villegas, \$5,000 to defendant Farinas, who said he needed  
24 the money to go to Florida, and the balance to Iglesias.

25 When Mrs. Lopez' car came into sight, the car in

1  
2 which Villegas and Farinas were driving with Farinas seated  
3 on the passenger side, was manoeuvred into position ahead  
4 of the Lopez car, with hand directions being given first by  
5 Farinas and then Villegas for Mrs. Lopez to follow, which  
6 signals were continued from time to time until almost the  
7 moment before Farinas and Villegas were apprehended by FBI  
8 agents, who had been following Mrs. Lopez and who had  
9 Farinas and Villegas under surveillance, and who also had  
10 observed the hand signals given by them.

11 There is also the testimony of Rosa Ramirez that  
12 on June 11th, sometime after the kidnapping, the defendant  
13 Farinas telephoned Rosa Ramirez at her sister Lydia's home  
14 enquiring for Villegas, that he was informed by her of the  
15 kidnapping and where the victim was then located; that  
16 Farinas said although he had no car he would try to get to  
17 the location, and to so inform Villegas.

18 Later that night Farinas called at the apartment,  
19 which appears to have been the meeting place of the con-  
20 spirators, and asked for and was given further details  
21 about the kidnapping, and after waiting awhile for Villegas  
22 left and said he would return the next morning, which he  
23 did. And it was from that apartment that he left with  
24 Villegas and entered the car which proceeded on its way to  
25 New Jersey, where the Lopez car was given the hand direc-

1  
2 tions to follow, and which finally ended in the arrest of  
3 Both Villegas and Farinas.

4 The defendant testified in his own behalf. His  
5 explanation as to the foregoing acts and conduct on his  
6 part differs from that of the government witnesses. He  
7 categorically denies he entered into the conspiracy on or  
8 about June 1, 1974, although after first denying he was  
9 present at Lydia Ramirez' apartment, admitted that he was  
10 there when others named as co-conspirators were present.

11 He denies he telephoned the apartment on June  
12 11th, that he was informed by Rosa Ramirez of the kidnap-  
13 ping or that he appeared there later that night. Defend-  
14 ant further denies that on June 12th he was present at  
15 the Ramirez apartment and that, as several government wit-  
16 nesses testified, he left from there with Villegas to go  
17 to New Jersey to pick up the ransom money after Diaz de-  
18 cided not to go.

19 He testified that he met Villegas on that day  
20 by sheer happenstance while he was looking for a rented  
21 car, which he had left in the area of the Ramirez home  
22 and to which he had lost the key, and that having come  
23 across Villegas accidentally the latter offered to take  
24 him back to New Jersey.

25 In short, the defendant testified he was ig-

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2 norant of any illicit purpose of the trip. He categor-  
3 ically denies he had knowledge of the kidnapping or that  
4 he was told anything about it as Villegas and other Govern-  
5 ment witnesses testified.

6 The defendant explained that the parking of the  
7 car on the way to New Jersey, during which period, inci-  
8 dentally, FBI agents observed Villegas and the defendant in  
9 the car, was because they wanted to smoke marijuana in a  
10 relaxed way. He denies he signalled the Lopez car, except  
11 at the very end when they were in a dead end street, and  
12 that he did this at the request of Villegas.

13 Thus the case, despite what the Assistant United  
14 States Attorney suggested, does turn upon the issue of  
15 credibility. As defense counsel put it, was Villegas telling  
16 the truth, or is Farinas telling the truth or, more accur-  
17 ately, were the government witnesses telling the truth or  
18 was the defendant telling the truth?

19 I have reflected upon the evidence as it has been  
20 submitted and I accept, in substance, the testimony of the  
21 government witnesses. Farinas' explanation of his presence  
22 in the car borders on the absurd. The testimony of inmates  
23 of West Street Detention House, each with a variety of  
24 convictions of felonies, that Villegas, while an inmate  
25 there expressed his opinion that Farinas was innocent, of

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2 course, is not only a conclusion, but cannot destroy the  
3 basic facts testified to by Villegas as well as other  
4 Government witnesses, including Mrs. Lopez and FBI agents  
5 who trailed Mrs. Lopez' car -- that is, the one in which  
6 Farinas was riding and from which the hand signals were  
7 given. The suggestion of a motive for Villegas' testi-  
8 mony and that of Rosa Ramirez is without substance.

9 The Court, upon all the evidence, is satisfied  
10 that the government has sustained its burden of proof be-  
11 yond a reasonable doubt with respect to each of the counts  
12 contained in the indictment and, accordingly, the defend-  
13 ant is found guilty. The foregoing shall constitute The  
14 The Court's findings of fact.

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Certificate of Service

January 16, 1975

I certify that a copy of this brief and appendix has been mailed to the United States Attorney for the Southern District of New York.

Sheila Ginsten